

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/003193

International filing date (day/month/year)
26.03.2004

Priority date (day/month/year)

International Patent Classification (IPC) or both national classification and IPC
A61L9/03, A01M1/20

Applicant
C.T.R. CONSULTORIA TECNICA E REPRESENTACOES, LDA.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/003193

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/003193

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,6-10,12,16,18,23-26
	No: Claims	1,2,4,5,11,13,14,15,19-22
Inventive step (IS)	Yes: Claims	6-10, 23
	No: Claims	3,12,16-18,24-26
Industrial applicability (IA)	Yes: Claims	1-26
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

10/594415
IAP01 Rec'd PCT/PTO 26 SEP 2006

International application No.

PCT/EP2004/003193

Re Item V.

- 1 The following documents are referred to in this communication:
D1 : EP 1 283 062 A
D2 : GB 2 279 010 A
D3 : US2002/0159916 A1
2. Document D1 discloses (cf. fig. 11) an evaporation device comprising a housing (1,2), a heater arrangement (R) for providing, in use, heat to a wick (W), a fan (11) for generating an air stream and a controlling member (10,13) for said heater and/or fan. Given that the claimed receptacle arrangement with its chambers and wicks are only defined in terms of the use of the device, thus being non-limiting features, claim 1 lacks novelty in view of D1 (Art. 33(2) PCT). This applies equally to dependent claims 2, 5, 14, 15 and 22 being directly known from D1.
3. D2 also discloses an evaporation device comprising a housing (10), a multiple independent heaters (40,80) for heating multiple wicks (70) located in containers (60), a fan (50) for generating an air stream and a controlling circuits (42, 91) for said heater and fan respectively. The fan (ventilator) is enclosed (capsulated) within chamber (16). The liquid containers are located (capsulated) in an internal space (15) separated from the fan chamber (16) by a partitioning board (14). It follows that claims 1, 2, 4, 5, 11, 13, 15 19-21 and 24 are not novel in view of D2.
4. The additional features of claims 12, 16-18 and 25 are known from D3. Given that the teaching of D3 can readily be implemented in D1, no inventive step can be acknowledged for these claims (Art. 33(3) PCT).

Re Item VIII:

1. Features defined in terms of their use, or being designated as "optional" or "advantageous" or "special" in claims 1, 4, 6, 8, 10, 13-15, 19, 21, 23-26 are non-limiting for the scope of the corresponding claim (Art. 6 PCT).
2. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1, D2 is not mentioned in the description, nor are these documents identified therein.